

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH POUSHA 1928

CrI.MC.No. 4095 of 2005()

AGAINST THE ORDER IN CMP.NO.8833/2004 IN
CC.81/2002 of CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA
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PETITIONER:

ABDUL KARIM, K.M.S. & COMPANY,
ONION AND POTTATO MARCHANTS, MARKET ROAD,
THODUPUZHA.

BY ADV. SRI.S.RAJEEV

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. P.B.IBRAHIM RAWTHER,
PALLIMUKKIL HOUSE, KUMMAMKALLU, THODUPUZHA EAST P.O.
3. THE FOOD INSPECTOR,
THODUPUZHA MUNICIPALITY, THODUPUZHA.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR
ADV. SRI.UNNIKRISHNAN.V.ALAPATT
SMT.P.S.SREELATHA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 03/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.4095 of 2005

Dated this the 3rd day of January, 2007

ORDER

The petitioner is the 3rd accused in a prosecution under the provisions of the Prevention of Food Adulteration Act, 1954. Initially only accused 1 and 2 were arrayed as accused. In the course of the trial, relevant documents were produced before the learned Magistrate and the learned Magistrate felt that the 3rd accused must also be arrayed as an accused. Accordingly, the 3rd accused was arrayed as accused. He appeared before the learned Magistrate. He was released on bail on 08.02.2005. The learned Magistrate examined the witnesses afresh. Thereafter, on 18.05.05, charges were framed against all the three accused. The order framing the charges, which is amenable to the revisional jurisdiction, has not been challenged. The petitioner has come to this Court with this petition under Section 482 Cr.P.C to quash the proceedings.

2. What is the reason ? The learned counsel for the petitioner submits that the bill relied on by the co-accused on the basis of which the petitioner has been arrayed as an accused is a forged bill. This will be evident by a close look at the bill itself, it is contended.

3. At the moment and with the available inputs, it will be presumptuous on the part of this Court to record any finding as to whether the bill produced is forged or not. I take note of the fact that after impleadment of the petitioner, the trial had continued afresh and charges have been framed against all the three accused on 18.05.05. This is evident from the report dated 22.12.2006 submitted by the learned Chief Judicial Magistrate. In these circumstances, I find absolutely no merit in the prayer to invoke the powers under Section 482 Cr.P.C and quash the proceedings against the petitioner.

4. This Crl.M.C is, in these circumstances, dismissed. But I may hasten to observe that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions before the learned Magistrate in the course of the trial including the contention that the bill/receipt produced is a forged one.

5. The learned counsel for the petitioner prays that the 3rd accused may be permitted to appear through counsel as he intends to raise no objections about the identity. It is for the petitioner to make such application and for the learned Magistrate to consider the same on merits. I have no reason to assume that the learned Magistrate would not consider such application on merits and in accordance with law. The learned Magistrate must do the same.

(R.BASANT, JUDGE)

rtr/-